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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69115; File No. SR-BOX-2013-10)

March 12, 2013

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fee Schedule for Trading on BOX

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 28, 2013, BOX Options Exchange LLC (the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the Fee Schedule for trading on the BOX Market LLC (“BOX”) options facility. In particular, the Exchange proposes to amend certain Exchange Fees for Professionals set forth in Section I of the Fee Schedule so that Professional Accounts are assessed the same fees as Broker-Dealers. Additionally, the Exchange proposes to increase the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

existing liquidity fees and credits for Non-Auction transactions within Section II of the Fee Schedule. While changes to the Fee Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 1, 2013. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet website at <http://boxexchange.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX. In particular, the Exchange proposes to amend certain Exchange Fees for Professionals set forth in Section I of the Fee Schedule so that all Professional accounts are assessed the same fees as Broker-Dealers. Additionally, the Exchange proposes to increase the existing liquidity fees and credits for Non-Auction transactions within Section II of the Fee Schedule.

In Section I. Exchange Fees, the Exchange proposes increase Auction Transaction⁵ fees for Professional PIP Orders or Agency Orders from \$0.00 to \$0.35. For Non-Auction

⁵ Auction Transactions are those transactions executed through the Price Improvement Period ("PIP"), Solicitation, and Facilitation auction mechanisms.

Transactions the Exchange proposes to increase Professional fees from \$0.20 to \$0.40. Both of these increases will put the Professional fees in line with those that Broker-Dealers are currently charged. The Exchange notes that the proposed fees for Professionals are within the range of Professional fees presently assessed in the industry.⁶

In Section II. Liquidity Fees and Credits, the Exchange proposes to increase the fees and credits for Non-Auction Transactions. Specifically, the Exchange proposes that the per contract fee for orders that add liquidity to the BOX Book be raised to \$0.30 from \$0.22 in Penny Pilot Classes, and to \$.75 from \$0.65 in non-Penny Pilot Classes. For orders that remove liquidity from the BOX Book, the Exchange proposes to raise the per contract credit to \$0.30 from \$0.22 in Penny Pilot Classes, and to \$0.75 from \$0.65 in non-Penny Pilot Classes.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁷ in general, and Section 6(b)(4) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Options Participants and other persons using its facilities.

⁶ Professional customers are charged \$0.33 per contract for Select Symbols on the International Securities Exchange (“ISE”), \$0.32 per contract for taking liquidity on NYSE Amex, and \$0.45 or more per contract on the NASDAQ Options Market (“NOM”) for adding or removing liquidity in non-Penny Pilot securities. See ISE fee schedule, available at: http://www.ise.com/assets/documents/OptionsExchange/legal/fee/fee_schedule.pdf, NYSE Amex Options Fee Schedule, available at: https://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyse_amex_options_fee_schedule_12_01_12_.pdf, and see NOM Fee Schedule, available at: <http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing>.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

The Exchange believes the proposed fee change for Professionals in both Auction Transactions and Non-Auction Transactions is reasonable, equitable and not unfairly discriminatory because it charges Professionals, whose activity on BOX is akin to the order flow activity and system usage to that of Broker-Dealers, the same fee for transactions as the fee charged to Broker-Dealers. BOX does not assess ongoing systems access fees, ongoing fees for access to BOX market data, or fees related to order cancellation. Professional accounts, while Public Customers by virtue of not being broker-dealers, generally engage in trading activity more similar to broker-dealer proprietary trading accounts (more than 390 orders per day on average). BOX notes that as of December 2012, orders for Professionals generally account for a majority of the orders BOX receives on a given trading day. This level of trading activity draws on a greater amount of BOX system resources than that of non-Professional Public Customers, and thus, greater ongoing BOX operational costs. Simply, the more orders submitted to BOX, the more messages sent to and received from BOX, the more orders potentially routed to away exchanges, and the more BOX system resources utilized. As such, rather than passing the costs of these higher order volumes along to all market participants, the Exchange believes it is more reasonable and equitable to assess those costs to the persons directly responsible. To that end, BOX aims to recover costs incurred by assessing Professional accounts a market competitive fee for transactions.

The Exchange believes the proposed change to increase Professional fees for Auction Transactions is not unfairly discriminatory as the fees will apply to all Professionals and Broker-Dealers competing in these transactions equally. Further, Professionals and Broker-Dealers are free to change the manner in which they access BOX. A Professional may, by sending fewer than 390 orders per day across the industry, begin participating as a non-Professional, Public

Customer and potentially reduce transaction fees. Additionally, for Auction Transactions, Professionals will still benefit from certain priority advantages as a customer.⁹ As noted above, Professionals' order sending behavior and trading activity tend to be more similar to Broker-Dealers trading on a proprietary basis. This is particularly true in considering orders in response to BOX auction mechanisms. As such, the Exchange believes it is not unfairly discriminatory to charge them the same fee as Broker-Dealers when competing for customer order flow in these Auction Transactions.

Professionals may elect to register as a Broker-Dealer and, once registered, may apply to become a BOX Market Maker, subject to Exchange Fees based on their ADV. The Exchange believes the proposed transaction fees for Professionals is equitable and not unfairly discriminatory because such Participants are not subject to the same obligations as Market Makers when providing liquidity to the market. In particular, Market Makers must maintain active two-sided markets in appointed classes, and must meet certain minimum quoting requirements. As such, the Exchange believes it is appropriate that Market Makers be charged comparably lower transaction fees as compared to Professionals when the Market Makers provide greater volumes of liquidity to the market. In light of the ability to access BOX in a variety of ways, each of which is priced differently, Professionals, Broker-Dealers and other market participants may each select the most economically beneficial manner to access BOX.

Further, the Exchange believes the proposed fee change is equitable and not unfairly discriminatory because it will assure that retail investors (non-Professional, Public Customers) continue to receive the appropriate marketplace advantages on BOX, while furthering fair

⁹ See Rules 7150(f)(4) and 7270 regarding allocation and executions within each BOX auction mechanism.

competition among marketplace professionals by treating them equally when they compete for these desirable customer orders. The Exchange believes it is reasonable and equitable to assess fees for Professionals that are the same as those fees for Broker-Dealers because it applies a pricing structure that groups these sophisticated market participants together when they are competing in this manner.

Generally, competing options exchanges assess Professionals fees at comparable rates to those proposed by the Exchange, and comparable to fees charged to Broker-Dealers.¹⁰ These proposed fee changes will allow Professionals and Broker-Dealers to be charged equally for every type of Exchange Fee. The Exchange operates within a highly competitive market in which market participants can readily direct order flow to any of several other competing venues if they deem fees at a particular venue to be excessive. As such, the Exchange believes the proposed increases are reasonable and equitable.

The Exchange further believes the proposed fee change for PIP Orders or Agency Orders is equitable and not unfairly discriminatory because Professionals generally do not initiate Auction Transactions, unlike some Broker-Dealers. Doing so requires, in part, guaranteeing a customer order an execution. Initiating an Auction Transaction for the benefit of the customer order, and taking on this guarantee provides these Participants potentially discounted fees.¹¹ The Exchange believes it is reasonable, equitable, and not unfairly discriminatory to charge Professional accounts the same fee as Broker-Dealers to compete for customer orders in Auction Transactions because when acting in response to an auction, as opposed to initiating the

¹⁰ Supra, note 6.

¹¹ See Section I.A. of the Fee Schedule that provides Tiered Fees with potential discounts for Participants that Initiate Auction Transactions.

transaction, Professionals' behavior, systems' sophistication, and trading activity are similar to Broker-Dealers, and distinct from the retail investors on the opposite side of the Auction Transaction.

The Exchange believes it is equitable and not unfairly discriminatory for Public Customers to be charged lower fees than Professionals and Broker-Dealers for all transactions on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for the benefit of non-Professional, Public Customers.¹² As such, the Exchange believes the proposed fees for Professional customer transactions are appropriate and not unfairly discriminatory. Additionally, the Exchange believes it promotes the best interests of investors to have lower Auction Transaction costs for non-Professional, Public Customers, and that the BOX fee structure will continue to attract this customer order flow to these auction mechanisms which BOX believes will provide greater potential price improvement to these investors.

BOX believes that the changes to its Non-Auction Transaction fees and credits are equitable and non-discriminatory in that they apply to all categories of Participants and across all account types. BOX operates within a highly competitive market in which market participants can readily direct order flow to any of eight other competing venues if they deem fee levels at a

¹² Note that BOX has historically imposed different, and higher, routing fees for Professionals as compared to non-Professional Public Customers. See Securities Exchange Act Release Nos. 65538 (October 12, 2011), 76 FR 64413 (October 18, 2011) (Adopting a \$0.50 per contract routing fee for Professionals while providing routing to non-Professional Public Customers at no charge), and 68149 (November 5, 2012), 77 FR 67693 (November 13, 2012) (Continuing to charge Professionals \$0.50 per contract executed on away exchanges and exempting Public Customer accounts from a routing fee for Directed Orders, provided 33% or more of a Participant's Public Customer Directed Orders received during the month are executed through PIP, and less than 45% of a Participant's Directed Orders received during the month are routed to and executed on an away exchange).

particular venue to be excessive. The changes to BOX credits and fees proposed by this filing are reasonable because they are intended to attract order flow to BOX by offering incentives to all market participants to submit their orders to the Exchange. BOX notes that this proposed rule change will increase both the fees and credit for Non-Auction Transactions. The result is that BOX will collect a fee from Participants that add liquidity and credit another Participant for removing liquidity in the same transaction. Stated otherwise, the fees collected will not necessarily result in additional revenue to BOX, but will simply allow BOX to provide the credit incentive to Participants to attract additional order flow to the Exchange. BOX believes it is appropriate to provide incentives to market participants, which could benefit all market participants by creating greater liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. BOX currently assesses Professional Customers and Broker Dealers equally for other types of Exchange Fees¹³ and this change will result in these participants being charged equally for all Auction and Non-Auction transactions. The BOX auction mechanisms provide the opportunity for market participants to compete for customer orders. The PIP has no limitations regarding the number of Market Makers, Options Participants that are not Market Makers, and customers that can participate and compete for orders in the PIP. BOX asserts that Participants are actively competing for customer orders, which is clearly supported by the simple fact that price improvement occurs in the PIP.

¹³ See Section I. of the Fee Schedule. Professionals and Broker Dealers are currently assessed equal fees in Improvement Orders on the PIP, Responses in the Solicitation and Facilitation Mechanism, and in Options Surcharge on the NDX and MNX.

Since the PIP began in 2004, customers have received more than \$400 million in savings through better executions on BOX, a monthly average of more than \$3.5 million over that time.

The Exchange does not believe the proposed fee change will inhibit Professionals' ability to compete within BOX Auction Transactions. Broker-Dealers currently compete actively within the PIP, and BOX does not believe assessing Professionals a \$0.35 per contract fee equivalent to that of Broker-Dealers, would impede Professionals' ability, or the incentive for Professionals, to compete therein. BOX notes that its market model and fees are generally intended to benefit retail customers by providing incentives for Participants to submit their customer order flow to BOX, and the PIP in particular. BOX makes a substantial amount of PIP-related data and statistics available to the public on its website www.boxexchange.com. Specifically, PIP Fee Pilot reports are available at: http://boxexchange.com/boxrReports_en; daily PIP volumes and average price improvement at: http://boxexchange.com/volumes_en; and BOX execution quality reports at: http://boxexchange.com/executionQualityReport_en. The data indisputably supports that the PIP provides price improvement for customer orders.

Furthermore, this proposed rule change will result in Non-Auction transactions being subject to increased fees and credits, which the Exchange believes will promote competition by enabling the Exchange to better compete for order flow and improve the Exchange's competitive position.

The fee changes proposed would assess Professionals the same fees as Broker-Dealers and increase both the fees and credits for Non-Auction Transactions. Because this change would charge Professionals similarly to Broker-Dealers in all circumstances, charge them a fee comparable to what Professionals and Broker-Dealers pay on competing exchanges,¹⁴ and for

¹⁴ Supra, note 6.

additional reasons as stated above, the Exchange does not believe that the proposed change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act¹⁵ and Rule 19b-4(f)(2) thereunder,¹⁶ because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2013-10 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

All submissions should refer to File Number SR-BOX-2013-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-BOX-2013-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

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¹⁷ 17 CFR 200.30-3(a)(12).